



Hong Kong Tax Guide 2020

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Contents

Investment basics	2
Overview of Hong Kong taxation	4
Taxation for businesses : profits tax	5
Compliance for profits tax	8
Withholding tax	9
Taxation for individuals : salaries tax	10
Compliance for salaries tax	13
Transfer pricing rules	14
Anti-avoidance rules	14
Other taxes / levies	15
Tax treaties	17



Investment basics



Currency - Hong Kong Dollar (HKD)



Foreign exchange control - Hong Kong does not impose controls on foreign exchange. There are no minimum requirement or restrictions on foreign investments. Foreign investors are allowed to invest into or repatriate capital or convert and remit profits and dividends derived from direct investments. Investors can bring their capital into Hong Kong through the open exchange market and remit the repatriated funds in the same way.



Tax authorities - Inland Revenue Department (IRD)



Accounting principles/financial statements - Hong Kong Financial Reporting Standards apply. Hong Kong-incorporated companies must prepare annual audited financial statements. Public companies must file annual financial statements with the Companies Registry. Private companies are not required to file annual financial statements with the Companies Registry, but must maintain proper accounting books and records.

Audited financial statements must be submitted to the IRD with the annual profits tax return (except for small corporations).





Principal forms of business entity - The principal forms of business are limited liability company (including public and private company), partnership, sole proprietorship and branch or representative office of a foreign corporation.

Limited company is the most common form of business entity in Hong Kong. Most limited companies incorporated in Hong Kong are private companies limited by shares. A private limited company in Hong Kong requires at least one director who is a natural person and one company secretary. A non-Hong Kong resident can be appointed as a director. There is no requirement for shareholders to be Hong Kong residents.

A branch of a company that is incorporated outside Hong Kong is not a separate legal entity from the parent. A representative office of a foreign company cannot engage in profit-making activities and can only fulfill limited functions.



Registration - All businesses engaged in activities in Hong Kong, whether or not incorporated locally, must obtain a Business Registration Certificate from the Hong Kong tax authorities (i.e. IRD) within one month from the starting of business.

In addition to Business Registration, a new Hong Kong incorporated company must obtain a Certificate of Incorporation from the Companies Registry. A company that is incorporated outside Hong Kong and establishes a place of business in Hong Kong must register with the Companies Registry as a "Registered Non-Hong Kong Company" within one month of establishment.

Hong Kong offers a one-stop company incorporation and business registration service. Business Registration Certificate can be issued together with the Certificate of Incorporation, normally within one hour for online applications.



Overview of Hong Kong taxation

There are three main types of tax levied under the Inland Revenue Ordinance (IRO), including profits tax, salaries tax and property tax.



Major levies include stamp duty, customs and excise duty, betting duty and hotel accommodation tax.



Characteristics of Hong Kong tax system:

- Simple tax system
- Territorial source concept
- No tax on dividends
- No sales tax, consumption tax or value added tax
- No withholding tax on dividends and interests
- No capital gains tax
- No estate duty

Taxation for businesses : profits tax



Persons chargeable - Corporations, partnerships, trustees and bodies of persons carrying on a trade, profession or business in Hong Kong are subject to tax on Hong Kong-source profits (excluding profits arising from the sale of capital assets). Foreign companies (including branches of foreign companies) carrying on business in Hong Kong and deriving Hong Kong-source income are treated in the same way as domestic companies.



Basis - Hong Kong operates a territorial system of taxation, with tax levied on income arising in or derived from Hong Kong. Only Hong Kong-source income is subject to profits tax. Branches are taxed in the same way as corporations.



Rate - The statutory tax rate is 16.5% for corporations and 15% for unincorporated businesses. A two-tiered profits tax rates regime applies: 8.25% for corporations (7.5% for unincorporated businesses) on the first HKD 2 million of assessable profits, and 16.5% for corporations (15% for unincorporated businesses) on the remainder of assessable profits. To avoid abuse of the two-tiered tax regime, each group of connected entities can nominate only one entity to apply the two-tiered tax rates.

<i>Assessable Profits</i>	<i>Tax Rate</i>	
	<i>Corporation</i>	<i>Unincorporated Business</i>
<i>First HKD 2 million</i>	8.25%	7.5%
<i>Remainder</i>	16.5%	15%

Where a partnership has both corporate and non-corporate partners, profits tax will be chargeable on the first HKD 2 million of assessable profits at the lower rate of 7.5% (for non-corporate partner) and 8.25% (for corporate partner), apportioned in accordance with their profit sharing ratios.



Taxable income - Hong Kong-source income (excluding profits arising from the sale of capital assets) is subject to profits tax. In determining the source of profits, Hong Kong generally applies the "operations test," which involves identifying the activities that are effective in generating the profits and the location where these activities are carried out.

Certain types of receipt that may not be caught by the general profits tax charging rules are specifically brought into the Hong Kong tax net via other provisions in the IRO, that deem the sums to be taxable, e.g., royalties for the use of various types of intellectual property (IP) in Hong Kong (see "Royalties" under "Withholding tax").



Dividends - Dividends are generally not taxable. Dividends paid from profits that already have been subject to Hong Kong tax are not taxable in the hands of shareholders. Dividends received from foreign companies are not taxable because they are foreign-source income.



Capital gains - Hong Kong does not tax capital gains. However, gains on the disposal of assets may be subject to profits tax if the disposal constitutes a transaction in the nature of trade (determination based on facts and actual circumstance).



Deductions - Expenses generally are deductible to the extent they are incurred in the production of profits that are chargeable to tax. However, expenditure of a capital nature generally is not deductible.

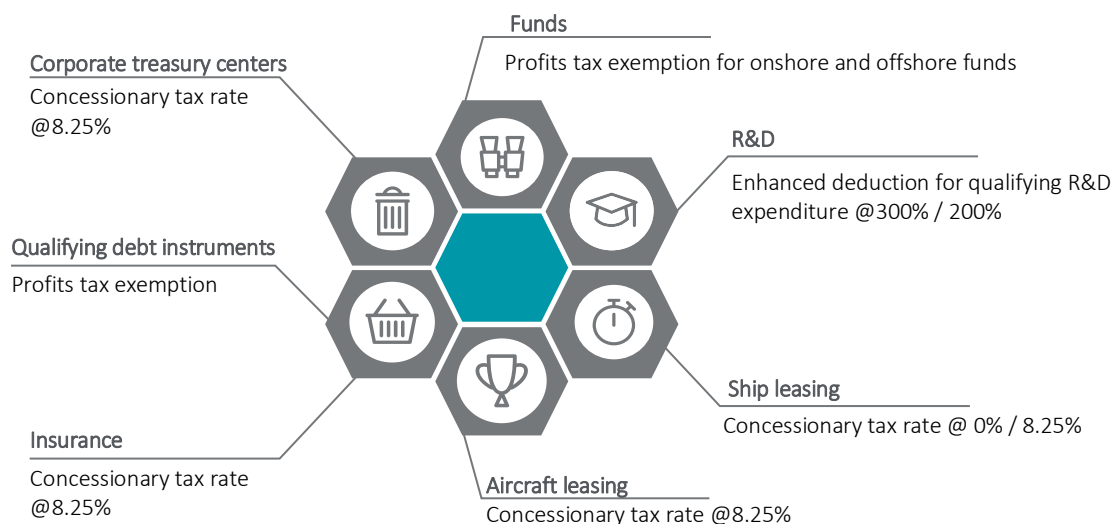


Interest deduction limitations - Although there is no thin capitalization or similar rule in Hong Kong, there are specific rules governing the deduction of interest expense. For example, no deduction is allowed for interest paid to a non-financial institution if the recipient is not subject to tax in Hong Kong on the interest, except where the interest is paid to an overseas associate by a taxpayer that carries on an intragroup financing business. There also are some anti-avoidance measures, such as a “secured-loan test” and an “interest flow-back test.”



Incentives - There are a number of preferential tax regimes to encourage different industries or activities, including the following:

- Enhanced deduction for research and development (R&D) expenditure;
- Tax exemption for onshore and offshore funds;
- Concessionary tax rate for corporate treasury centers ;
- Tax exemption for gains from qualified debt instruments;
- Concessionary tax rates for reinsurance and captive insurance businesses, direct insurers of selected general insurance business and general reinsurers of a specified insurer and concessionary treatment to selected insurance brokerage businesses; and
- Concessionary tax rates for aircraft leasing businesses, ship lessors and ship leasing managers.





Losses - Tax losses may be carried forward indefinitely and offset against future taxable profits of the same taxpayer. Specific anti-avoidance legislation prevents the purchase of a loss company for the sole or main purpose of obtaining a tax benefit. Losses cannot be carried back or transferred to other taxpayers.



Foreign tax relief - Hong Kong operates a territorial tax system under which only income/profits sourced in Hong Kong are taxable. Double taxation therefore typically is not a significant issue in Hong Kong. Nevertheless, double taxation generally can be eliminated by tax credits under a tax treaty or unilateral deduction where the prescribed conditions are met.



Exit tax - Hong Kong does not tax capital gains or capital repatriation. However, gains on the disposal of assets may be subject to profits tax if the disposal constitutes a transaction in the nature of trade (a factual determination).



Compliance for profits tax



Tax year – Tax is charged on the assessable profits for a year of assessment (YOA) (starting from 1 April of a year to 31 March of the subsequent year). The basis period of a YOA is generally the accounting period ending in the YOA.



Filing – The IRD issues profits tax returns annually, usually on the first business day of April, for companies to report the information required in the return for the accounting year ended in the previous YOA and supported by audited financial statements (where appropriate). The tax return must be filed within the prescribed time limit, usually within one month from the date of issue. If a tax representative is appointed, the tax return filing due date may be extended under the “block extension” scheme. Hong Kong does not allow the filing of consolidated returns and there are no provisions for relief of group losses. Companies in the same group must file their own tax returns and pay tax separately.



Payment – Assessments are issued by the IRD when the tax returns are filed. Upon receiving the assessments, companies (and unincorporated businesses) are required to pay a provisional profits tax for the subsequent YOA, generally based on the preceding year’s profits. This payment is used to offset against the final profits tax for that subsequent YOA. Any excess payment is applied against the provisional profits tax payable for the following year.



Penalties – A surcharge or penalty applies for failure to comply with the filing and payment obligations.



Rulings – Taxpayers may request an advance ruling from the IRD on the application of provisions of the IRO. Advance pricing arrangements (APAs) also are possible.



Substantial activities requirements – To qualify for certain preferential tax regimes (e.g. aircraft leasing, corporate treasury center, captive insurer, reinsurer, general insurance business, insurance brokerage business, ship leasing, etc.), there are threshold requirements for the level of activity in Hong Kong. These thresholds are based on various indicators such as the number of full-time employees in Hong Kong engaged in the activity and the amount of associated operating expenditure incurred in Hong Kong.



Disclosure requirements – Hong Kong is one of the jurisdictions that has committed to the adoption of the OECD common reporting standard between tax authorities. The relevant rules require Hong Kong financial entities to report to the IRD information on financial accounts held by non-residents located in countries that have agreed to an exchange of information on tax matters in accordance with bilateral competent authority agreements or a multilateral competent authority agreement under the Convention on Mutual Administrative Assistance in Tax Matters.

Withholding tax



Dividends – There is no withholding tax on dividend distributions from a Hong Kong entity to a resident or non-resident.



Interest – There is no withholding tax on interest payments from a Hong Kong entity to a resident or non-resident.



Royalties – Royalties for the use of, or the right to use, most types of IP in Hong Kong, or where the royalty payments are deductible for the payer, are deemed to be taxable in Hong Kong. The amount deemed taxable is 30% of the gross amount of the royalties paid, resulting in an effective rate of 4.95% (for a corporation) in general. If a royalty is paid to an affiliated non-resident and the IP previously was owned by a person carrying on business in Hong Kong, 100% of the royalty is deemed to be taxable, resulting in an effective rate of 16.5% (for a corporation). The two-tiered tax rates regime also applies to a non-resident royalties recipient.

The payer of royalties to a non-resident is required to withhold the tax and remit that amount to the IRD.



Taxation for individuals :

salaries tax



Persons chargeable – Any person, including locally employed individuals and expatriates, who derives Hong Kong-source employment income, is subject to salaries tax.

A person under a non-Hong Kong employment is only assessed on the income attributable to the services rendered in Hong Kong. The income attributable to services rendered outside Hong Kong is not chargeable to salaries tax. If that non-Hong Kong resident visits Hong Kong for no more than 60 days in a tax year (from 1 April to 31 March of the following year), he / she is not liable to salaries tax on the entire employment income.

Fees received by directors of a company, the control and management of which is exercised in Hong Kong, are chargeable to salaries tax irrespective of where the director resides.



Basis – Hong Kong operates a territorial system of taxation. Individuals are subject to salaries tax on income from employment, an office or a pension derived from Hong Kong. The source of employment income is determined by the place where the employment contract is negotiated, concluded and enforceable; the residence of the employer; and the place where the employee's remuneration is paid. All income from Hong Kong employment is regarded as sourced in Hong Kong. Income from non-Hong Kong employment is regarded as sourced in Hong Kong if it is attributable to services rendered in Hong Kong.



Rates – Individuals are taxed at progressive rates on their net chargeable income (i.e. assessable income less deductions and allowances). The marginal tax rates range from 2% to 17% with a cap at the standard rate of 15% on assessable income (i.e. taxable income without the deduction of allowances).

<i>Net chargeable income (after allowances and deductions)</i>	<i>Rate (for YOA 2018/19 onwards)</i>
<i>Up to HKD 50,000</i>	<i>2%</i>
<i>HKD 50,001 – HKD 100,000</i>	<i>6%</i>
<i>HKD 100,001 – HKD 150,000</i>	<i>10%</i>
<i>HKD 150,001 – HKD 200,000</i>	<i>14%</i>
<i>Over HKD 200,000</i>	<i>17%</i>



Taxable income – Individuals are taxed on their total Hong Kong income from employment, less deductible expenses (e.g. charitable donations, self-education expenses) and allowances. Taxable income includes salaries, wages, director's fees, commissions, bonuses, awards, gratuities, allowances and other benefits derived from employment. All pensions should be reported as assessable income.

Dividends, interests or capital gains earned by individuals are not subject to salaries tax. However, gains realised by the exercise of, or assignment or release of share options obtained from holding an office or employment are taxable. Any income received from the employer as an allowance, perquisite or fringe benefit are also taxable. These forms of income include cash allowances, liability of employees discharged by employers, convertible benefits, education benefits and holiday journey benefits. Severance payments and long-term service payments that must be paid under the Employment Ordinance are not subject to salaries tax. Any payment exceeding the amount calculated under the Employment Ordinance may be subject to salaries tax.



Housing benefit – The taxable value (or rateable value, if lower) of a rent-free residence provided by an employer or its associates is presumed to be 10% (4% or 8% for hotel and hostel accommodation, depending on the number of rooms) of the employee's income after deducting outgoings and expenses (excluding expenses of self-education). This treatment also applies to reimbursement of the rent paid for the employee's accommodation, subject to proper control exercised by the employer.



Deductions – Expenses are allowable if they are wholly, exclusively and necessarily incurred to produce income subject to salaries tax, including:

- Self-education expenses up to HKD 100,000
- Home loan interest up to HKD 100,000
- Elderly residential care expenses up to HKD 100,000
- Mandatory contributions to the Mandatory Provident Fund (MPF) or Recognized Occupational Retirement Scheme, up to HKD 18,000
- Donations exceeding HKD 100 to approved charities, up to a maximum of 35% of assessable income less other deductions
- Qualifying premiums up to HKD 8,000 paid by taxpayers or their spouse as a policyholder of a voluntary health insurance scheme policy for an insured person
- Qualifying annuity premiums paid by taxpayers or their spouse as a policyholder of a qualifying deferred annuity policy under which annuity payments are receivable by an annuitant and MPF voluntary contributions paid, up to a maximum of HKD 60,000





Allowances – Income subject to salaries tax is reduced by allowances before the tax rates are applied, including:

Allowances (for the YOA 2019/20)	HKD
<i>Basic allowance (for a single person)</i>	132,000
<i>Married person's allowance</i>	264,000
<i>Single parent allowance</i>	132,000
<i>Child allowance (for each of the 1st to 9th child)</i>	120,000
<i>Dependent parents and dependent grandparents allowance (for each dependent)</i>	
- aged 60 and above	50,000
- aged 55-59	25,000



Foreign tax relief – To avoid double taxation where income is derived from a jurisdiction that has not concluded a tax treaty with Hong Kong, unilateral relief (i.e. an exemption of the income from salaries tax) may be available if an employee is subject to a tax similar to salaries tax in another country for services provided in that country and the foreign tax has been paid. To eliminate double taxation for income derived from a jurisdiction that has a tax treaty with Hong Kong, relief may be available in the form of a tax credit under the relevant treaty.



Compliance for salaries tax



Tax year – The YOA is 1 April to 31 March.



Filing status – Tax returns are filed on an individual basis. A married couple may choose to file a joint assessment. If an individual taxpayer derives different types of chargeable income for salaries tax, profits tax and / or property tax, he / she can choose to be assessed under personal assessment where different types of taxable income may be aggregated for tax assessment purposes.

The IRD normally issues tax returns to individual taxpayers on the first business day of May every year. The tax return for individuals must be filed within one month from the date of issuance. An extension of one month will be granted automatically if the tax return is filed electronically.

An employee and its employer must file separate returns reporting all remuneration accruing to the employee for the YOA, including taxable benefits. Assessments are issued upon the IRD receiving the tax returns.



Payment – Salaries tax is generally payable in two instalments: (1) Final salaries tax for the YOA ended on the previous 31 March is payable in January or February, along with 75% of the provisional salaries tax due for the current YOA; and (2) the balance of the provisional salaries tax is payable in April, following the end of the YOA.



Penalties – A surcharge and penalty apply for failure to comply with the filing and payment obligations.



Rulings – Taxpayers may request an advance ruling from the IRD on the application of provisions of the IRO.



Transfer pricing rules



The transfer pricing rules generally follow the OECD guidelines and require transactions with related parties to be on arm's length terms. The rules allow the IRD to adjust the profits or losses of an enterprise where the actual compensation made or imposed between two related persons differs from what would have been agreed between independent persons, and the difference results in a tax advantage. The transfer pricing rules apply to related party transactions, including the sale, transfer and use of assets and the provision of services. Domestic transactions that do not give rise to a Hong Kong tax difference may be exempt from the transfer pricing rules.

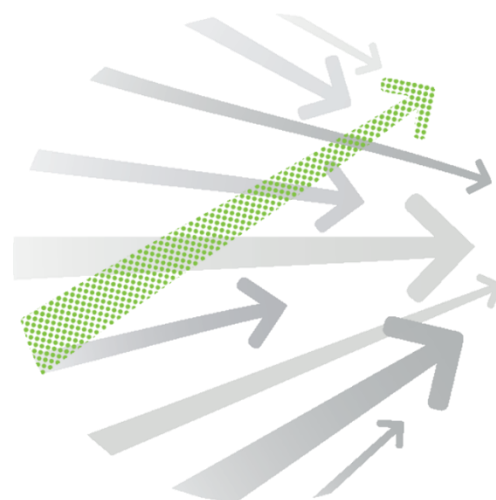
Hong Kong has adopted the OECD's recommended three-tiered documentation structure, comprising a master file, local file and country-by-country (CbC) reporting for constituent entities of certain multinational entity groups.

The legislation provides for an APA regime with unilateral, bilateral and multilateral APAs.

Anti-avoidance rules



General anti-avoidance provisions in the IRO may be invoked for any deliberate attempt to implement tax avoidance schemes through the use of artificial and fictitious transactions; the implementation of transactions with the sole or dominant purpose of producing a tax benefit; or the use of tax loss companies. In addition, there are specific anti-avoidance provisions under different preferential tax regimes.



Other taxes / levies



Property tax – Property owners are taxed on rental income from property located in Hong Kong. Property tax is charged at a standard rate of 15% of the net assessable value of the property, as determined by the rent, service charges and fees paid to the owner, less a statutory allowance of 20% on the net assessable value for repairs and maintenance. If a company includes rental income from property in its income subject to profits tax, it may deduct the amount of property tax paid from the amount of profits tax due or apply for an exemption from property tax.



Stamp duty – Stamp duty is charged on documents connected with the lease, sale or transfer of immovable property in Hong Kong, and the sale or transfer of Hong Kong shares. If property or shares are transferred for less than market value, stamp duty may be imposed based on the market value on the date of transfer.

Stamp duty on the transfer of Hong Kong shares is 0.2% of the value of the shares transferred (i.e. 0.1% for each of the bought note and sold note).

The rate on the lease of immovable property is 0.25% of the total rent payable for a lease with a one-year term (or less). The rates are 0.5% and 1% of the annual or average annual rent for a lease with a term exceeding one year but not exceeding three years, and exceeding three years, respectively.

For transfer of immovable property, the maximum ad valorem stamp duty (AVD) on the sale and conveyance of non-residential property is 8.5% of the value of property transferred. The AVD on residential property is a flat rate of 15%, with exceptions under certain circumstances. In addition, a special stamp duty (SSD) ranging from 5% to 20% is levied if the residential property is sold within 36 months after the purchase. On top of AVD and SSD, a buyer's stamp duty at a flat rate of 15% applies to residential property if it is acquired by any person (including a limited company), except a Hong Kong permanent resident.

An exemption may be available for intragroup transactions if certain conditions are satisfied.



Betting duty – Betting duty is charged on certain betting events, including authorized horse races, authorized football matches, authorized cash-sweeps and authorized lotteries. The duty rates range from 25% to 74.5%. Winners of cash prizes from lucky draws are not required to pay betting duty.



Hotel accommodation tax – It is imposed on hotel and guesthouse accommodation. The proprietor of every hotel shall report and pay the amount of tax payable. With effect from 1 July 2008, the government has lowered the rate to 0%. In other words, no hotel accommodation tax is currently imposed.



Customs and excise duty – In general, imports into Hong Kong are tax-free, except: motor vehicles for use on the road which are subject to a First Registration Tax administered by the Transport Department; and the four types of dutiable commodities which are subject to excise duties, irrespective of whether they are imported or locally manufactured. These goods are liquors, tobacco, hydrocarbon oil and methyl alcohol. There is no tax or excise duty on exports from Hong Kong.



Value added tax – Hong Kong does not levy value added tax or sales tax.



Estate duty – Hong Kong abolished estate duty in 2006.



Social security contributions – Both the employer and the employee are required to make regular mandatory contributions of 5% of the employees' relevant income to the MPF scheme, subject to the relevant minimum and maximum income levels. For an employee paid monthly, the relevant minimum and maximum income levels are HKD 7,100 and HKD 30,000, respectively. For employees whose monthly income is less than HKD 7,100, the employer is required to pay 5% as a contribution to the MPF scheme and the employee is not required to contribute. For employees whose monthly income is HKD 7,100 or more, the employer is required to pay 5% as its own contribution and deduct 5% as the employee's contribution to the MPF scheme (i.e. the employee's portion).



Tax treaties

Hong Kong has signed double tax arrangements/agreements with the following jurisdictions:

- Austria
- Belarus
- Belgium
- Brunei
- Cambodia
- Canada
- Czech
- Estonia
- Finland
- France
- Guernsey
- Hungary
- India
- Indonesia
- Ireland
- Italy
- Japan
- Jersey
- Korea
- Kuwait
- Latvia
- Liechtenstein
- Luxembourg
- Macau SAR
- Mainland of China
- Malaysia
- Malta
- Mexico
- Netherlands
- New Zealand
- Pakistan
- Portugal
- Qatar
- Romania
- Russia
- Saudi Arabia
- South Africa
- Spain
- Switzerland
- Thailand
- United Arab Emirates
- United Kingdom
- Vietnam

(as of August 2020)

Hong Kong signed the OECD multilateral instrument (MLI) on 7 June 2017.



Hong Kong Tax Guide is published for the clients and professionals of the Hong Kong and Chinese Mainland offices of Deloitte China. The contents are of a general nature only. Readers are advised to consult their tax advisors before acting on any information contained in this guide. For more information or advice on the above subject or analysis of other tax issues, please contact:

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